

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN SENATE JANUARY 4, 2016

**SENATE BILL**

**No. 294**

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**Introduced by Senators Pan and Nielsen**

February 23, 2015

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An act to amend Sections 19780, 20997, 21024, and 21029 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 294, as amended, Pan. Public employment: military service: ~~return to state service:~~ *credit*.

~~The State Civil Service Act requires the reinstatement of a permanent, probationary, or exempt employee who returns from active duty military service to his or her former position, as specified. Under existing law, reinstatement to an employee's former exempt position reestablishes the employee's tenure and civil service reinstatement rights, if any, as they existed immediately prior to his or her military leave. Existing law requires an employer to contribute an amount equal to the contributions that would have been made by the employer and the employee during the employee's absence if that absence is due to military service or service with the uniformed services, except as specified.~~

*The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS) for the purpose of providing pension and other benefits to public employees, which are funded by employee and employer contributions and investment returns. PERS provides defined benefits to its members based on their final compensation, credited service, and age at retirement, subject to certain variations. Existing law provides a member with an absence due to military service or service with the uniformed services with the right*

*to receive credit for service for the period of that absence and requires the member's employer to contribute both the employee and employer contributions for that period if specified conditions are met.*

This bill would require the Board of Administration of the Public Employees' Retirement System to ~~adopt~~ *provide* a separate and unique form to be used by a member to receive credit for his or her military ~~service; service with employer-paid employee and employer contributions,~~ as specified. The bill would require employers to inform the member of his or her rights *to receive that credit with employer-paid contributions* within 30 days of the member's return to state service by utilizing that form. ~~The bill would additionally require an employer, on or before form and until April 1, 2017, would further require state appointing authorities to provide a letter letters or electronic communication communications to all employees informing them of their right to receive credit for military or uniform service pursuant to these provisions; those rights.~~

Existing law authorizes a member to elect at any time prior to retirement, in accordance with regulations of the Board of Administration of the Public Employees' Retirement System, to receive credit for public service, in addition to his or her current and prior service credit.

This bill would require an employer to inform a new employee at the time of hire of his or her rights to purchase service credit ~~as a result of that person's for certain active service, prior to entering the person's first employment with that employer or entrance into the retirement system, in the Armed Forces of the United States or the active service in the Merchant Marine of the United States prior to 1950; States,~~ as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 19780 of the Government Code is
- 2 amended to read:
- 3 19780. (a) Except as provided in Section 19781, a permanent,
- 4 probationary, or exempt employee who begins active duty within
- 5 90 calendar days from the effective date of his or her long-term
- 6 military leave or within 10 calendar days from the effective date
- 7 of his or her short-term or emergency military leave and who

1 returns to state service within six months after termination of  
2 military service under his or her long-term military leave or within  
3 10 days after termination of military service under his or her  
4 short-term or emergency military leave shall be reinstated to his  
5 or her former position. Reinstatement to an employee's former  
6 exempt position under this section or Section 19783 shall  
7 reestablish the employee's tenure and civil service reinstatement  
8 rights, if any, as they existed immediately prior to his or her  
9 military leave pursuant to this section or resignation pursuant to  
10 Section 19783. For the purpose of this section any period of  
11 rehabilitation afforded by the United States or the state following  
12 active duty shall be considered as military service and termination  
13 of the state military emergency by the Governor shall be considered  
14 termination of military service.

15 (b) Within 30 days of the employee's return to state service, the  
16 appointing authority shall inform the employee of his or her rights  
17 pursuant to Section 20997, and provide the member with the form  
18 ~~authorized~~ *provided* pursuant to subdivision (f) of that section.

19 (c) Prior to April 1, 2017, every appointing authority shall  
20 provide a letter or electronic communication to all employees  
21 informing them of the rights provided by Section 20997.

22 SEC. 2. Section 20997 of the Government Code is amended  
23 to read:

24 20997. (a) Notwithstanding any other provision of this part,  
25 for each member other than a National Guard member absent  
26 without compensation due to military service pursuant to Section  
27 20990, the employer shall contribute an amount equal to the  
28 contributions that would have been made by the employer and the  
29 employee during the absence. The employer's contribution pursuant  
30 to this section shall be based upon the member's compensation  
31 earnable and the contribution rates in effect at the commencement  
32 of the absence, if any of the following apply:

33 (1) The member returns to state service within six months after  
34 receiving a discharge from military service other than dishonorable.

35 (2) The member returns to state service within six months after  
36 completion of any period of rehabilitation offered by the United  
37 States government, except that for purposes of this section,  
38 rehabilitation solely for education purposes shall not be considered.

39 (3) The member is granted a leave of absence from the state  
40 employer as of the same date the member was reinstated to that

1 employment from military service, provided that the member  
2 returns to state service at the conclusion of the leave.

3 (4) The member is placed on a state civil service reemployment  
4 list within six months after receiving a discharge from military  
5 service other than dishonorable and returns to state service upon  
6 receipt of an offer of reemployment.

7 (5) The member retires from this system for service or disability  
8 during the course of an absence from state service for military  
9 service.

10 (6) The member dies during the course of an absence from state  
11 service for military service.

12 (b) Any member on leave from state service for military service  
13 who elects to continue contributing to this system shall be entitled  
14 to a refund of those contributions upon request.

15 (c) Any member who withdrew contributions during or in  
16 contemplation of his or her military service is entitled to the  
17 benefits of this section irrespective of whether the contributions  
18 are redeposited. The rate for future contributions for the member  
19 shall be based upon the member's age at the time the member  
20 commenced a leave of absence from state service for service in  
21 the military.

22 (d) The employer's contribution pursuant to this section may  
23 be made either in lump sum, or it may be included in its monthly  
24 contribution as adjusted by inclusion of the amount due in the  
25 employer rate at the valuation most near in time to the event  
26 causing the employer's liability for those contributions. The  
27 employer's contributions pursuant to this section shall be used  
28 solely for the purpose of paying retirement and death benefits and  
29 shall not be paid to the member whose contributions are refunded  
30 to him or her pursuant to Section 20735.

31 (e) Within 30 days of the member's return to state service, the  
32 employer shall inform the member of his or her rights pursuant to  
33 this section, and provide the employee with the form ~~authorized~~  
34 *provided* pursuant to subdivision (f).

35 (f) The board shall ~~authorize~~ *provide* a separate and unique form  
36 to be used by the member to receive credit for his or her military  
37 ~~service as provided by this section. The form shall not pertain to~~  
38 ~~any other type of service credit purchase and service. The form~~  
39 shall clearly state that the member has no obligation to pay for any

1 portion of the employer contribution ~~required by this section~~. *if*  
2 *eligibility is determined pursuant to this section.*

3 *SEC. 3. Section 21024 of the Government Code is amended to*  
4 *read:*

5 21024. (a) “Public service” with respect to a local member,  
6 other than a school member, also means active service with the  
7 Armed Forces or the Merchant Marine of the United States,  
8 including time during any period of rehabilitation afforded by the  
9 United States government other than a period of rehabilitation for  
10 purely educational purposes, and for six months thereafter prior  
11 to the member’s first employment by the employer under this  
12 section in which he or she was a member.

13 (b) Any member electing to receive credit for that public service  
14 shall make the contributions as specified in Sections 21050 and  
15 21052. However, any eligible member who requests costing of  
16 service credit between January 1, 2001, and December 31, 2003,  
17 may, instead of making those contributions, make the payment  
18 calculated under this article as it read on December 31, 2000, which  
19 payment shall be made in the manner described in Section 21050.

20 (c) The public service under this section shall not include  
21 military service (1) in any period for which credit is otherwise  
22 given under this article or Article 4 (commencing with Section  
23 20990) or (2) to the extent that total credit under this section would  
24 exceed four years.

25 (d) Notwithstanding Section 21034, a member may select which  
26 of two or more periods of service entitles him or her to receive  
27 public service under this section.

28 (e) This section shall apply to a member only if he or she elects  
29 to receive credit while he or she is in state service in the  
30 employment of one employer on or after the date of the employer’s  
31 election to be subject to this section.

32 (f) This section shall not apply to any contracting agency nor  
33 to the employees of any contracting agency until the agency elects  
34 to be subject to this section by amendment to its contract made in  
35 the manner prescribed for approval of contracts or in the case of  
36 contracts made after this section takes effect, by express provision  
37 in the contract making the contracting agency subject to this  
38 section. The amendments to this section made during the second  
39 year of the 1999–2000 Regular Session shall apply to contracts  
40 subject to this section on January 1, 2001.

1     (g) *An employer shall inform a new employee at the time of hire*  
2     *of his or her rights to purchase service credit under this section.*

3     ~~SEC. 3.~~

4     SEC. 4. Section 21029 of the Government Code is amended  
5     to read:

6     21029. (a) “Public service” with respect to a state member or  
7     a school member or with respect to a retired former state employee  
8     or a retired former school employee, who retired on or after  
9     December 31, 1981, also means active service, prior to entering  
10    this system as a state member or as a school member, of not less  
11    than one year in the Armed Forces of the United States, or, active  
12    service, prior to entering this system as a state or school member,  
13    of not less than one year in the Merchant Marine of the United  
14    States prior to January 1, 1950. Public service credit shall not be  
15    granted if the service described above terminated with a discharge  
16    under dishonorable conditions. The public service credit to be  
17    granted for that service shall be on the basis of one year of credit  
18    for each year of credited state service, but shall not exceed a total  
19    of four years of public service credit regardless of the number of  
20    years of either that service or subsequent state service. A state  
21    member or a school member or a retired former state employee or  
22    a retired former school employee electing to receive a credit for  
23    that public service shall have been credited with at least one year  
24    of state service on the date of election or the date of retirement.

25    (b) An election by a state member or a school member with  
26    respect to public service under this section may be made only while  
27    the member is in state, university, or school employment, and a  
28    retired former employee shall have retired immediately following  
29    service as a state member or as a school member. The retirement  
30    allowance of a retired former state employee or a retired former  
31    school employee, who elects to receive public service credit  
32    pursuant to this section shall be increased only with respect to the  
33    allowance payable on and after the date of election. For the  
34    purposes of this section, a member as described in subdivision (d)  
35    of Section 20776, shall also mean a former state employee or a  
36    former school employee, who retired on or after December 31,  
37    1981.

38    (c) A member or retired former employee who elects to become  
39    subject to this section shall make the contributions as specified in  
40    Sections 21050 and 21052.

1 (d) The board has no duty to locate or notify any eligible former  
2 member who is currently retired or to provide the name or address  
3 of any such retired person, agency, or entity for the purpose of  
4 notifying those persons.

5 (e) An employer shall inform a new employee at the time of  
6 hire of his or her rights to purchase service credit under this section.

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